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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/110,987 07/07/98 GOCHANOUR G GGG-10003/29

QM32/0329

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EXAMINER

TRAN, K

ART UNIT

PAPER NUMBER

3724

DATE MAILED:

9
03/29/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/110,987

Applicant(s)

Gochanour

Examiner

Kim Ngoc Tran

Group Art Unit

3724

☒ Responsive to communication(s) filed on 1/24/00

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-3, 5-10, 13, 14, and 17 is/are pending in the application

Of the above, claim(s) 10, 13, 14, and 17 is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3 and 5-9 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 7

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3724

DETAILED ACTION

1. This office action is response to applicant's amendment received on January 24, 2000.

Election/Restriction

2. Applicant's election with traverse of the restriction in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the method claims cannot be practiced by another materially different apparatus. This is not found persuasive because claims 10, 13-14, and 17 as amended are directed to a non-elected invention of a process for using the dispenser of claim 1. Even though reference is made to such dispenser in claim 10, the new invention defined by claims 10, 13-14, and 17 are distinct from the invention of Group I in that the apparatus can be practiced by another and materially different process such as one form wrapping other objects.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 5-6, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3724

In claims 3 and 8, it is not clear how defining the workpiece further defines the claimed dispenser.

The term "substantially" in claims 5 and 6 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. To what degree is the base member resilient or non-resilient?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 5, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Garr.

Garr discloses the same invention including housing to receive a roll of partially transparent flexible film (figure 1), edge operative to separate the roll of film (46), base member defining an area of at least 40 square inches to permit placement of the palmar surface of an adult hand (17), an aperture through which the film is pulled and drawn off the roll (19), non-resilient base member (36), and resilient base member (reference column 4, lines 52-55).

Art Unit: 3724

Allowable Subject Matter

7. Claims 3, 7 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed on January 24, 2000 have been fully considered but they are not deemed persuasive.

Applicant contends that claims 3 and 8 further limit the physical aspects of the claimed invention. How does a perforated sheet further describe the physical features of the apparatus? It is not inherent that perforated sheet material would define an apparatus that is physically configured to separate material into perforated sheets. Perforated sheets maybe separated with an apparatus that contains a cutting edge, a blunt edge, or even manually by the user. How does a flexible film partially transparent describe the base member? Is the base member circular, rectangular? What color is the base member?

Applicant objects to the rejections of claim 5 and 6 regarding the degree of resiliency and non-resiliency of the base member. Examiner agrees that degrees of resiliency exist, however the use of the term "substantially" does not describe the resiliency of the base member.

For reasons above, the grounds of rejection are deemed proper.

Art Unit: 3724

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoke and Krall are cited to show a related device.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).


Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Ngoc Tran whose telephone number is (703) 305-2597.

12. Any general inquiry relating to this application can be directed to the Group receptionist at (703)-308-1148 or Supervisory Patent Examiner, Rinaldi Rada, at (703)-308-2187. Please submit facsimiles to the Group fax number at (703)-305-3579.

knt
March 25, 2000


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700